

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CHRIS YOUNG,

Plaintiff,

v.

DOCUSIGN, INC, a Delaware Corporation,

Defendant.

Case No. 2:19-cv-00236-BJR

FIRST AMENDED COMPLAINT

1. Wrongful Discharge in Violation of Public Policy
2. Breach of Contract
3. Breach of Duty of Good Faith and Fair Dealing
4. Negligent Misrepresentation
5. Age Discrimination
6. Violations of RCW 49.52.050

Plaintiff Chris Young (“Plaintiff” or “Young”) alleges:

I. INTRODUCTION

1.1 This is a complaint for damages and other appropriate relief to compensate Plaintiff for losses he suffered as a result of Defendant’s unlawful acts, including wrongful termination from employment with Defendant DocuSign, Inc. (“DocuSign”). Plaintiff, a universally respected high-performing employee, was abruptly and unexpectedly terminated on July 27, 2018, shortly after refusing to commit what he reasonably believed to be an illegal act, and reporting employer misconduct.

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II. THE PARTIES

2.1 Plaintiff Chris Young is a former employee of Defendant DocuSign. He is a resident of King County, Washington, where he was employed by DocuSign until he was terminated on July 27, 2018. At all times pertinent to this complaint, Plaintiff was an “employee” within the meaning of the Washington Law Against Discrimination (“WLAD”), RCW 49.60.

2.2 DocuSign, Inc. (“DocuSign”) is a Delaware corporation, and touts itself as the world’s #1 e-signature solution, with more than 400,000 customers and hundreds of millions of users. Defendant further represents that DocuSign and their employees must demonstrate integrity, reliability, honesty and strength of character at all times, and must always act in the best interest of stockholders and customers. Defendant is an “employer” within the meaning of the WLAD. At all times relevant hereto DocuSign maintained an office in Seattle, Washington where the Defendant conducted business.

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III. JURISDICTION AND VENUE

3.1 Plaintiff filed the Complaint in King County Superior Court, which had original jurisdiction under RCW 2.08.010. Venue was proper in King County, Washington under RCW 4.12.020 and 4.12.025 because Defendant is a resident of King County and King County is the county in which the cause of action or some part thereof arose. Defendant removed this action to the United States District Court for the Western District of Washington at Seattle pursuant to 28 U.S.C §§ 1332, 1441 and 1446.

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IV. FACTS AND BACKGROUND

4.1 Plaintiff was hired by DocuSign in July 2017 for the senior level position of Regional Vice President.

4.2 At the time Defendant sought to retain Plaintiff’s valuable services, Young was an experienced sales executive with a reputation for honesty throughout his more than 10-year history of high-level leadership experience, most recently running a 200-employee organization on the West Coast with a Fortune 200 firm.

1 4.3 Plaintiff's extensive experience and skill sets were highly desired by multiple
2 companies. After just two-weeks on the job market Plaintiff turned down four competing offers
3 to accept the role at DocuSign, in reliance on representations made by Defendant.

4 4.4 Plaintiff's compensation with DocuSign consisted of approximately: 1)
5 \$180,000.00 in annual salary, 2) \$120,000.00 in annual performance-based bonus compensation,
6 and very significantly to Young's decision to accept DocuSign's offer, 3) a material and exclusive
7 pre-IPO stock grant reasonably valued at more than \$1,000,000.00.

8 4.5 To induce Plaintiff to join DocuSign, Defendant told Young that: "DocuSign was
9 going public within the year and that the stock options [promised to Young] would be worth a lot
10 of money when that happened."

11 4.6 It was anticipated that Young would immediately add tremendous value to
12 DocuSign, and in recognition of this fact Plaintiff was granted 14,100 shares of DocuSign stock
13 at hiring. 3,525 shares were scheduled to vest on August 10, 2018. The 3,525 shares had a
14 quantifiable and certain value of \$205,155.00 on August 10, 2018, based on the then current
15 closing value of the stock which had a per share price of \$58.20.

16 4.7 Plaintiff excelled as anticipated and delivered tremendous value to DocuSign.
17 Young was the only employee above plan in 2017 and he led the top performing team in the
18 country in 2018. Young was praised for his performance, and he was never advised of any
19 performance issue, nor any other issue with his employment, prior to pretextual issues
20 manufactured at his termination.

21 4.8 Simultaneous to the revelation of Young's immediate value-at DocuSign, it
22 became apparent to Plaintiff that his age and depth of experience were a problem for some at
23 DocuSign, a company with a youth culture which appeared to lack the structure and compliance
24 procedures Plaintiff was used to through his prior employment experience.
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1 4.9 Defendant discriminated against Plaintiff on the basis of age. Plaintiff was
2 subjected to disparate treatment by Defendant when Young was treated less favorably than
3 younger employees under the age of forty.

4 4.10 Young's direct supervisor Scott Lenzion, Head of Financial Services Vertical
5 Sales, routinely and repeatedly cancelled standing meetings with Young over a period of nearly
6 one-year, depriving Young of mentoring and career advancement opportunities, while favoring
7 younger employees.

8 4.11 Lenzion also cut Young out of multiple meetings with senior management, thereby
9 denying Plaintiff in-person interaction with DocuSign management, a critical component of
10 success within the DocuSign culture, in an effort to advance his own career through actions
11 adverse to Plaintiff. On one occasion Young was invited to an executive planning meeting. After
12 arriving, Plaintiff was singled out and told he needed to leave the meeting. Plaintiff was the only
13 employee who was subjected to this type of action.

14 4.12 These adverse actions allowed Plaintiff's younger supervisors to block senior
15 management's exposure to various aspects of Young's work product, including a proposed
16 channel build out conceived of and designed by Young. The proposed channel build out was
17 designed to facilitate and provide a mechanism for external DocuSign partners to bring DocuSign
18 products to market through a formal referral process.

19 4.13 Plaintiff and his direct supervisors believed the channel build out, proposed by
20 Young, would result in substantial additional revenue for DocuSign. However, just prior to
21 Young's termination Lenzion, and Lenzion's supervisor Matt Willis, Head of All Vertical
22 Sales, blocked work on the channel build out informing Young: "[w]e want to do it, we just don't
23 know when." On information and belief, after Young's termination, younger DocuSign
24 employees proceeded to implement the channel build out designed by Plaintiff, taking credit for
25 Plaintiff's work. Age was a substantial factor in Defendant's adverse employment action against
26 Plaintiff.

1 4.14 The loose youth culture at DocuSign also fostered other behavior which Plaintiff
2 reasonably believed to be illegal and/or constitute employer misconduct. It became clear to
3 Plaintiff that DocuSign operated by a mantra that was antithetical to the values they espoused
4 publicly. The actual DocuSign culture observed by Plaintiff appeared to be get customers and
5 grow revenue at any cost. DocuSign adopted official policies to this end. One such policy was
6 called "Writing Ghost E-mails."

7 4.15 The Ghost E-mail policy is a formal written policy at DocuSign, whereby Defendant
8 requires members of management to send ghost e-mails to DocuSign clients from the DocuSign
9 manager's personal work e-mail address. In these cases, DocuSign managers did not personally
10 write all, or portions, of the e-mails they sent at DocuSign's direction. The policy is designed to
11 intentionally misrepresent matters to DocuSign clients, creating misleading representations of
12 DocuSign managers involvement and/or endorsement in matters, in an effort to induce additional
13 business and increase DocuSign revenue.

14 4.16 DocuSign required Plaintiff to attend company training related to writing ghost e-
15 mails, and DocuSign's official "Ghost E-mail" policy. The training was led by DocuSign
16 employee Mike Fiascone. Mr. Fiascone's DocuSign training included direction on how to
17 credibly make misrepresentations to DocuSign customers to facilitate increased business. On
18 information and belief, Mr. Fiascone's tactics included misrepresentation of his own title.

19 4.17 Under the Ghost E-mail policy senior level employees, such as Young, received
20 voluminous amounts of e-mails written by subordinate employees. Defendant required Young
21 and other senior level employees to forward ghost e-mails, written by subordinate employees,
22 from the senior employee's own DocuSign e-mail address to intentionally create the false
23 impression that the senior level employee wrote the content. Plaintiff believes he forwarded over
24 200 of these ghost e-mails as a term and condition of his employment with DocuSign.

25 4.18 Plaintiff became progressively concerned over the Ghost Email policy, and
26 Defendant's requests of him, which he reasonably believed to constitute employer misconduct.

1 Just prior to Plaintiff's termination he received and forwarded yet another ghost e-mail request
2 from David Bannow, one of his direct reports. Plaintiff received the request to forward the ghost
3 e-mail on a tablet while boarding a plane and traveling for Defendant. The e-mail was one of the
4 100 plus e-mails Plaintiff routinely assessed on a daily basis.

5 4.19 The Bannow ghost e-mail request included a representation that Young was the
6 "compliance guy" at DocuSign. Plaintiff reached out to DocuSign employees to report what he
7 reasonably believed to be employer misconduct. Plaintiff indicated that he was not comfortable
8 being called the "compliance guy." In one communication raising the concern to his boss Mr.
9 Lendzion on July 27, 2018 at 9:03 a.m. Plaintiff texted: "[t]his Bannow upside might be the
10 biggest hail Mary – he introduced me as chief Compliance Officer to get an ID Check deal!!!
11 Now that's a stretch."

12 4.20 Young's concerns about Defendant's Ghost E-mail policy became heightened after
13 DocuSign was listed on the Nasdaq Stock Market. The request that Plaintiff represent himself as
14 the compliance guy, was made simultaneous to another troubling request of Young. Just prior to
15 Plaintiff's termination, Adam Kruse, one of Plaintiff's direct reports, came to him with a request
16 to approve a deal that Plaintiff reasonably believed to constitute illegal conduct. Plaintiff refused
17 to commit what he believed to be an illegal act.

18 4.21 DocuSign has a process that allows employees to increase billing with a client at
19 end of quarter to inflate revenue and report to shareholders, yet the revenue is not actually billed
20 or brought in for months; if ever. Plaintiff was trained and told to approve under this process.

21 4.22 Kruse was scheduled to transfer out of Plaintiff's team, and he came to Plaintiff
22 with a request to approve an unsubstantiated sales deal. Plaintiff had observed other instances of
23 what he believed were potentially illegal attempts to inflate DocuSign revenue in advance of
24 quarterly earnings reports. Now he was faced with a direct request to participate in such an act.
25 Plaintiff believed Kruse was seeking to take advantage of this DocuSign policy to improperly
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1 inflate his own commissions without remaining in his position long enough to be accountable if
2 a future audit found the claims to be invalid.

3 4.23 Kruse pled with Plaintiff: “[h]ey man, let’s push this thing through and get a couple
4 grand.” Young replied: “I’m not doing anything illegal.” Plaintiff informed Kruse: “in good
5 faith, I can’t put my signature on this, I know they are not growing and are not going to increase
6 their revenue. We’re grasping at straws, this has got to be illegal now that we’ve gone public.
7 No, I won’t approve it.”

8 4.24 Plaintiff reported the incident to his boss Mr. Lendzion, and was surprised to find
9 out that Kruse went around Plaintiff and directly requested that Lendzion approve the deal.
10 Lendzion informed Plaintiff that he had already approved the deal. Lendzion indicated: “[i]f
11 Adam’s good with it, I’m good with it.”

12 4.25 Plaintiff was unexpectedly terminated by Defendant, who only provided pretextual
13 reasons for the termination relating to Plaintiff merely following Defendant’s official Ghost
14 Email policy. Plaintiff was summoned to Human Resources by Molly Lambright, Senior Director
15 Human Resources. Ms. Lambright questioned the accuracy of a fact in the Ghost Email that
16 Plaintiff sent for Mr. Bannow, an assertion that DocuSign had 400,000 customers. Ms. Lambright
17 informed Plaintiff that she believed this purported fact was inaccurate and that including the
18 statement in an e-mail could be a terminable offense. DocuSign currently touts the fact that they
19 have 400,000 customers on the company’s website.

20 4.26 Plaintiff protested and sought to explain himself. He indicated that he believed that
21 DocuSign did have 400,000 customers. Plaintiff discussed the ghost e-mail and the fact he was
22 following DocuSign policy. To his surprise Ms. Lambright indicated that she was not aware of
23 the Ghost Email policy.

24 4.27 Plaintiff offered to go get his laptop and walk through the electronic trail on the
25 correspondence with Ms. Lambright to demonstrate what text he had written and what text
26 Bannow had written. Ms. Lambright was unwilling to discuss the matter with Plaintiff and she

1 excused Young from her office. Ms. Lambright committed to a follow up meeting. Ms.
2 Lambright never met with Plaintiff again.

3 4.28 Plaintiff's concerns over Defendant's misconduct and illegal activity were
4 confirmed through his meeting with Ms. Lambright. In response to Plaintiff's description of what
5 he had been asked to do under the Ghost E-mail policy, Ms. Lambright indicated that the actions
6 required of Plaintiff under the policy were illegal, not ethical, and inappropriate. Plaintiff
7 informed Ms. Lambright that the whole company does it. Plaintiff advised Ms. Lambright that
8 he was merely following DocuSign policy by forwarding the ghost e-mail, and Plaintiff provided
9 information to Ms. Lambright to corroborate the fact that Plaintiff had reached out internally to
10 express his concerns over being labeled a compliance manager.

11 4.29 Later that day Plaintiff was called into an office by Lendzion and Willis. Ms.
12 Lambright was not present in this meeting. Lendzion and Willis offered additional and
13 inconsistent statements related to content written by Bannow in the ghost e-mail Plaintiff
14 forwarded in line with DocuSign policy. Lendzion and Willis informed Plaintiff that he was
15 terminated effective immediately. Young was denied any opportunity to defend himself or
16 present facts.

17 4.30 Defendant's actions in terminating Plaintiff were contrary to company policy and
18 existing business practices at DocuSign.

19 4.31 Young's employment contract with DocuSign contained the DocuSign, Inc. Code
20 of Ethics, presented as Exhibit B to the employment agreement. The employment agreement
21 creates an atmosphere of job security and fair treatment with promises of specific treatment in
22 specific situations. Young was induced thereby to remain on the job and not actively seek other
23 employment. The promises made to Young in his employment contract with DocuSign are
24 enforceable components of the employment relationship, and DocuSign has an obligation of
25 treatment in accord with those written promises.

1 4.32 Young understands – but vigorously disputes the claim - DocuSign to allege that
2 his compliance with DocuSign’s Ghost Email policy was somehow a violation of the Code.
3 Under the “enforcement” clause at page 13 of Young’s employment contract with DocuSign, the
4 agreement provides: “[a]ny violators of this of this Code will be subject to disciplinary action.
5 The disciplinary actions will be determined by the Board.” On information and belief, the
6 disciplinary action taken against Young was not determined by the Board.

7 4.33 In addition, and in part, DocuSign made the following promises to Young. “The
8 Company is committed to maintaining the highest standards of ethical conduct. Our Code of
9 Ethics (this “Code”) reflects the business practices and principles of behavior that support this
10 commitment. We expect every employee to read and understand this Code and its application to
11 the performance of his or her business responsibilities. We will hold each of our employees
12 accountable for adherence to this Code. Those who violate this Code will be subject to
13 disciplinary action, up to and including termination. This Code does not describe every practice
14 or principle related to honest and ethical conduct. The contents of the Employment Guidelines
15 section above and the Security Policy that follows this section should be read in conjunction with
16 this Code.

17 4.34 All employees of the Company must comply with all of the laws, rules and
18 regulations of the United States and other countries, as well as the states, counties, cities and other
19 jurisdictions, applicable to the Company or its business.

20 4.35 **Fair Dealing.** Each employee should endeavor to deal fairly with the Company’s
21 customers, suppliers, competitors, officers and employees. None should take unfair advantage
22 of anyone through manipulation, concealment, abuse of privileged information,
23 misrepresentation of material facts or any other unfair dealing practice. Stealing proprietary
24 information, misusing trade secret information that was obtained without the owner’s consent, or
25 inducing such disclosures by past or present employees of other companies is prohibited.
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1 **4.36 Reporting Any Illegal or Unethical Behavior.** Employees are encouraged to
2 promptly contact supervisors, managers, the human resources department or the legal department
3 if the Employee believes that the Employee has observed illegal or unethical behavior by any
4 officer, director or employee or by anyone purporting to be acting on the Company's behalf and,
5 the Employee has any doubt, about the best course of action in a particular situation. Such reports
6 may be made anonymously. Confidentiality will be protected, subject to applicable law,
7 regulation or legal proceeding. When a supervisor receives reports of violations or questionable
8 behavior pursuant to this Code of Ethics, that supervisor shall be responsible for bringing such
9 reports to the attention of his or her supervisor or to the Board of Directors, as appropriate, in
10 accordance with the reporting procedures contained in this Code of Ethics. Supervisors must
11 endeavor to honor any confidentiality or anonymity requests made by the reporting person,
12 subject to applicable law, regulation or legal proceedings.

13 **4.37 No Retaliation.** The Company will not permit retaliation of any kind against
14 anyone who makes a report or complaint in good faith that a violation of this Code or other illegal
15 or unethical conduct has occurred.”

16 4.38 Defendant also promised Young that DocuSign and their officers, directors, and
17 employees would comply with applicable laws, demonstrate integrity, reliability, honesty,
18 strength of character, act in the best interest of DocuSign, their stockholders and their customers,
19 act responsibly in the community, treat each other with respect, conduct all internal discussions,
20 deliberations and activities as if they were completely in the public view, and to **comport**
21 **themselves in accordance with the highest ethical standards whether or not there is a legal**
22 **requirement to do so.**

23 4.39 It would appear that DocuSign expected and demanded that their employees,
24 including Young, abide by the policies articulated in these documents. DocuSign created an
25 atmosphere where Young justifiably relied on these express policies, and thus, justifiably
26 expected Defendant to do the same.

4.40 As a direct result of Defendant's unlawful actions, Plaintiff has been damaged in an amount to be determined at trial. The total amount of Plaintiff's damages will be determined at trial but is believed to exceed \$5,000,000.00.

COUNT I

(WRONGFUL DISCHARGE IN VIOLATION OF PUBLIC POLICY)

5.1 Plaintiff realleges and incorporates by this reference each and every allegation set forth in paragraphs 1 through 4.40 above.

5.2 A substantial factor motivating Defendant to terminate Plaintiff, was Plaintiff's refusing to commit an unlawful act, and/or Plaintiff reporting what he reasonably believed to be employer misconduct.

5.3 Policy-protected conduct was a substantial factor in Plaintiff's termination, and DocuSign had no overriding justification for terminating Plaintiff who was universally respected and regarded as a top performer prior his wrongful termination.

5.4 As a result of Defendant's actions, Plaintiff has been damaged in an amount to be proven at trial.

COUNT II

(BREACH OF CONTRACT)

6.1 Plaintiff realleges and incorporates by this reference each and every allegation set forth in paragraphs 1 through 5.4 above.

6.2 Plaintiff entered into valid and binding employment contracts with DocuSign, including Plaintiff's DocuSign, Inc. Restricted Stock Unit Grant Notice and each party's agreement to abide by the DocuSign Code of Conduct. The DocuSign Code of Conduct governed conduct required in the relationship and gave Plaintiff specific assurances upon which he relied in making his decision to accept employment with DocuSign and perform by rendering nearly one year's labor under the Restricted Stock Unit Grant Notice; which Plaintiff accepted as read with the DocuSign Code of Conduct agreement. The DocuSign Code specifically called out

1 certain employment agreements outside of the Code, noting that they should be “read in
2 conjunction with this Code.” Plaintiff reasonably read his Restricted Stock Unit Grant Notice
3 and all of his Employment Agreements in conjunction with the Code.

4 6.3 DocuSign breached their agreement with Young, when they failed to perform
5 specific duties in specific situations when the contractual duty was due. DocuSign’s breaches
6 include, but are not limited to: 1) failing to maintaining the highest standards of ethical conduct,
7 2) failing to ensure DocuSign employees must comply with all of the laws, rules and regulations
8 of the United States, and allowing DocuSign employees to attempt to induce Plaintiff to engage
9 in illegal activity, 3) not dealing fairly with DocuSign customers, 4) inducing Plaintiff to report
10 what he reasonably believed to be illegal and/or unethical behavior and then violating the
11 DocuSign anti-retaliation policy by terminating Plaintiff in substantial part for reporting such
12 misconduct, 5) failing to hold employees other than Plaintiff accountable for adherence to this
13 Code, 6) requiring Plaintiff to comply with the Ghost Email policy and then allegedly and pre-
14 textually terminating Plaintiff for following DocuSign policy, and 7) failing to have the Board
15 determine disciplinary action. Defendant’s breach substantially defeated the purpose of the
16 contract, and deprived Plaintiff of a benefit he reasonably expected.

17 6.4 Plaintiff is entitled to the sum of money that will place him in as good a position as
18 he would have been in if both Plaintiff and Defendant had performed all of their promises under
19 the contract. Defendant’s breach caused Plaintiff damages in an amount to be proven at trial.

20 **COUNT III**

21 **(BREACH OF THE COVENANT OF GOOD FAITH AND FAIR DEALING)**

22 7.1 Plaintiff realleges and incorporates by this reference each and every allegation set
23 forth in paragraphs 1 through 6.4 above.

24 7.2 As in all contractual agreements, DocuSign was required to perform the obligations
25 contained in its contracts with Plaintiff in good faith. This duty requires the parties to cooperate
26 with each other so that each may obtain the full benefit of performance.

7.3 DocuSign breached its duty of good faith through actions discussed above, including acts of wrongful termination, which deprived him of stock options set to vest in a matter of days, after Plaintiff labored for nearly one-full-year in expectation of these wages set to be paid August 10, 2018.

7.4 Defendant's breach of the duty of good faith and fair dealing caused Plaintiff damages in an amount to be proven at trial.

COUNT IV

(NEGLIGENT MISREPRESENTATION)

8.1 Plaintiff realleges and incorporates by this reference each and every allegation set forth in paragraphs 1 through 7.4 above.

8.2 Defendant knew or should have known that the promises made to Young about the DocuSign Code of Conduct, and the intention of Defendant and Defendant's agents to abide by such promises, were either affirmatively false or materially misleading due to Defendant's omissions. Defendant negligently supplied this information to Young to induce him to act and continue to act as an Regional Vice President, so that Defendant could utilize Young's representation on the Executive Team to support a high IPO offer price and continue to increase share price and reap profits from their improper and unlawful actions, and extract value from Young's services for less money than parties had bargained.

8.3 Plaintiff reasonably relied on the information provided by Defendant and suffered significant damages in an amount to be proven at trial as a direct and proximate cause of Defendant's misrepresentations.

COUNT V

(AGE DISCRIMINATION)

9.1 Plaintiff realleges and incorporates by this reference each and every allegation set forth in paragraphs 1 through 8.3 above.

9.2 Defendant's illegal acts discussed above violated RCW 49.60.180. Plaintiff alleges disparate treatment. Plaintiff's age was a substantial factor motivating Defendant's decision to terminate Plaintiff. Plaintiff is forty years of age or older, satisfying the limitation imposed by RCW 49.60.205.

9.3 As a result of Defendant's actions, Plaintiff has been damaged in an amount to be proven at trial.

COUNT VI

(VIOLATIONS OF RCW 49.52.050)

10.1 Plaintiff realleges and incorporates by this reference each and every allegation set forth in paragraphs 1 through 9.3 above.

10.2 On information and belief, Defendant willfully and with intent to deprive Young of part of his wages, paid Young a lower wage than the wage Defendant was obligated to pay by statute, ordinance and/or contract.

10.3 Plaintiff does not seek double damages on the basis of Defendant's violation of anti-discrimination statutes, rather, consistent with the Court's guidance in *Hemmings v. Tidyman's Inc.*, citing the Washington State Supreme Court in *Schilling v. Radio Holdings, Inc.*, 136 Wn.2d 152, 961 P.2d 371, 377 (Wash. 1998), Plaintiff seeks double damages where Defendant withheld quantifiable and undisputed amounts of accrued pay.

10.4 DocuSign, Inc. Restricted Stock Unit Grant Notice and each party's agreement to abide by the DocuSign Code of Conduct, created a unique employment agreement between DocuSign and Plaintiff. The totality of Plaintiff's new hire Employment Agreements created an atmosphere of job security and fair treatment with promises of specific treatment in specific situations, inducing Plaintiff to refrain from seeking alternative employment and continue working for Defendant, which altered any claim of a purely at-will employment relationship.

10.5 These facts, combined with DocuSign’s instruction to Plaintiff that employment agreements outside of the Code, should be “read in conjunction with this Code”, create a situation

1 analogous in some ways to Mr. Coulombe's claim in *Coulombe v. Total Renal Care Holdings,*
2 *Inc.* Mr. Coulombe asserted that DaVita's collection or receipt of his stock options violated
3 Washington's rebate of wages or so-called anti-kickback statute, RCW 49.52.050. Accepting
4 that stock options, as wages, may fall under RCW 49.52.050, the Court nonetheless rejected Mr.
5 Coulombe's claim for double damages under RCW 49.52.070, because, under his specific facts,
6 Mr. Coulombe had knowingly relinquished his options, and thus fell under the "knowingly
7 submitted" proviso of Section 070. *Coulombe v. Total Renal Care Holdings, Inc.*, 2007 U.S.
8 Dist. LEXIS 7766, 2007 WL 419347. Young's facts are clearly distinguishable, in that he did
9 not knowingly submit to DocuSign's violation of RCW 49.52.050. Facts indicate that Young did
10 not knowingly relinquish his stock options; Young never agreed to forego compensation.

11 10.6 "The Legislature has evidenced a strong policy in favor of payment of wages due
12 employees by enacting a comprehensive scheme to ensure payment of wages, including the
13 statutes at issue here which provide both criminal and civil penalties for the willful failure of an
14 employer to pay wages . . . By providing for costs and attorney fees, the Legislature has provided
15 an effective mechanism for recovery even where wage amounts wrongfully withheld may be
16 small . . . This comprehensive legislative system with respect to wages indicates a strong
17 legislative intent to assure payment to employees of wages they have earned . . .

18 10.7 The act is thus primarily a protective measure, rather than a strictly corrupt practices
19 statute. In other words, the aim or purpose of the act is to see that the employee shall realize the
20 full amount of the wages which by statute, ordinance, or contract he is entitled to receive from
21 his employer, and which the employer is obligated to pay, and, further, to see that the employee
22 is not deprived of such right, nor the employer permitted to evade his obligation, by a withholding
23 of a part of the wages . . . The statute must be liberally construed to advance the Legislature's
24 intent to protect employee wages and assure payment . . .

25 10.8 The critical determination in a case under RCW 49.52.070 for double damages is
26 whether the employer's failure to pay wages was "willful." In the past, our test for "willful"

1 failure to pay has not been stringent: the employer's refusal to pay must be volitional. Willful
2 means 'merely that the 'person knows what he is doing, intends to do what he is doing, and is a
3 free agent' . . . ('Under RCW 49.52.050(2), a non-payment of wages is willful when it is not a
4 matter of mere carelessness, but the result of knowing and intentional action.'). The nonpayment
5 of wages is willful "when it is the result of a knowing and intentional action . . . Ordinarily, the
6 issue of whether an employer acts "willfully" for purposes of RCW 49.52.070 is a question of
7 fact." *Schilling v. Radio Holdings, Inc.*, 136 Wn.2d 152, 157 961 P.2d 371 (1998 Wash).

8 10.9 Pursuant to RCW 49.52.070, Plaintiff seeks double damages, together with costs of
9 his suit and a reasonable sum for attorney's fees. Plaintiff asserts that, minimally, the 3,525 shares
10 scheduled to vest on August 10, 2018, with a known and certain value of \$205,155.00, constitute
11 wages earned - quantifiable and undisputed amounts of accrued pay – that are subject to the
12 remedy articulated by the Legislature under RCW 49.52.070 for Defendant's violation of any
13 provision of RCW 49.52.050 (1) and (2).

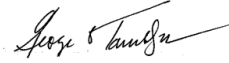
14 **PRAYER FOR RELIEF**

15 **WHEREFORE, Young prays for relief as follows:**

- 16 1. Judgment against Defendant on each of his claims;
- 17 2. an award of damages, including but not limited to lost wages and benefits, lost stock
18 options, lost future earnings, and non-economic damages for mental and emotional distress,
19 embarrassment, humiliation and loss of enjoyment of life;
- 20 3. an award of pre-judgment interest on all liquidated amounts and an award of post-judgment
21 interest at the highest legal rate then applicable;
- 22 4. an award of double damages as appropriate under RCW 49.52.070;
- 23 5. an award of Plaintiffs' reasonable attorney's fees, costs, other expenses pursuant to RCW
24 49.52.070, RCW 49.60.030(2), RCW 49.48.030 if ultimately applicable to this action,
25 and/or as otherwise allowed by law; and
- 26 6. for such other and additional relief as the Court deems just and proper.

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3 DATED this 27th day of March, 2019

4 Mercer Island Law Group, PLLC

5 By: 

6 George O. Tamblyn #15429

7 Jason J. Gillis #52762
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3 **CERTIFICATE OF SERVICE**

4 I, Heather Maloney, certify under penalty of perjury under the laws of the State of

5 Washington, that the following is true and correct:

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7 At all times hereinafter mentioned, I was and am a citizen of the United States of

8 America, a resident of the State of Washington, over the age of eighteen (18) years, not a party to

9 the above-entitled action, and competent to be a witness herein.

10 On the date set forth below I served the document listed below, in the manner noted on the

11 following entity: FIRST AMENDED COMPLAINT

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PARTY/COUNSEL	DELIVERY INSTRUCTIONS
Matthew Jedreski WSBA#50542	<input type="checkbox"/> Hand Delivery
Ryan Hess WSBA#50738	<input type="checkbox"/> Certified Mail
David Wright Tremaine LLP	<input type="checkbox"/> Facsimile
920 Fifth Avenue, Ste 3300	<input checked="" type="checkbox"/> E-mail
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Phone (206) 622-3150	
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mjedreski@dwt.com	
ryanhess@dwt.com	

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21 DATED this 27th day of March, 2019.

22 MERCER ISLAND LAW GROUP, PLLC

23 /s/ Heather Maloney

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